

UNITED STATES DISTRICT COURT OF OHIO  
WESTERN DIVISION

4 ANTONIO MOORE, :  
5 Plaintiff, :  
6 vs. : CASE NO. C-1-02-0430  
7 KROGER COMPANY, ET AL., :  
8 Defendants.:

24 HAWKINS COURT REPORTING SERVICES  
1160 INNER CIRCLE DRIVE  
25 CINCINNATI, OHIO 45240-3002  
TELE/FAX: 513-851-2313

1 Q. And tell me a little bit about your  
2 educational background?

3 A. I went to Western Hills High School,  
4 where I was graduated in 1992.

5 Q. Have any post high school education  
6 classes, courses, anything in that regard?

7 A. No, I don't.

8 Q. What about any certificates, trades,  
9 anything in that respect?

10 A. No, I don't.

11 Q. And how are you currently employed,  
12 officer?

13 A. City of Cincinnati Police Officer.

14 Q. And how long have you been employed  
15 with the City of Cincinnati?

16 A. Four-and-a-half years.

17 Q. So your title today is what?

18 A. Police Officer.

19 Q. Police Officer. And briefly describe  
20 to me what are your duties as a Police Officer with  
21 the Cincinnati Police Department?

22 A. I patrol the areas of Bond Hill, just  
23 routine police patrol.

24 Q. And that means that you're the driver  
25 of a police vehicle and you just drive through the

1           A. At the time, it was 22 weeks; may be  
2 24 weeks now.

3           Q. Is it different now?

4           A. I think they changed it two weeks,  
5 moved it up two weeks.

6           Q. Okay. So during those 22 weeks, you  
7 would just have various training in the areas  
8 concerning, I believe you said, law, physical  
9 abilities and just tactical --

10          A. Correct.

11          Q. -- type of areas? Now, did your  
12 training also include training on how to effectuate  
13 an arrest?

14          A. Yes.

15          Q. Did you also -- Well, tell me a little  
16 bit about that. Is that part of some of the field  
17 training that you just spoke about?

18          A. It's field training. It's classroom  
19 training also.

20          Q. Did you also receive training  
21 regarding probable cause?

22          A. Yes.

23          Q. And tell me a little bit about that.  
24 What does that consist of?

25          A. Probable cause is reasons that you

1 have to arrest a person that leads up to an arrest.

2 Q. Okay. Now, the training that you  
3 received on that, would that have been also in  
4 classroom and in the field?

5 A. Yes.

6 Q. Okay. Now, after becoming a  
7 Cincinnati Police Officer, have you received any  
8 additional training on how to effectuate an arrest?

9 A. I've had training for investigative  
10 areas. I've had training in gunshot residue, various  
11 trainings as far as just police related.

12 Q. Okay. And that's something that's  
13 required by the Department?

14 A. Yes.

15 Q. Okay. And how often do you have  
16 training? Is this annually, quarterly or how is that  
17 --

18 A. Right. It's yearly.

19 Q. Yearly?

20 A. Um-hum.

21 Q. Okay. So you have yearly training in  
22 different areas from year-to-year or is it always the  
23 same areas?

24 A. It's different trainings.

25 Q. Okay. And that's just mandated or set

1 up by the Department?

2 A. Correct.

3 Q. Now, what about any post training, and  
4 when I say, "post," I mean since you've been a police  
5 officer, have you had additional training on probably  
6 cause as part of the yearly training that you spoke  
7 about.

8 A. I can't remember as far as just that in  
9 detail, but part of our training is we have drug  
10 training just to, to recognize drug activity and  
11 making the arrest, so --

12 Q. Okay. So some of the training  
13 probably would have covered, is that what you're  
14 saying, would have covered that issue --

15 A. Correct.

16 Q. -- in other training you received?

17 Tell me a little bit, Officer McNeil,  
18 about training or if you've received any training as  
19 it relates to non-moving violations.

20 A. Non-moving violations?

21 Q. Correct. Now, whether you cite it;  
22 can you arrest for it; have you covered that part?

23 A. A non-moving violation --

24 Q. Yeah, like --

25 A. -- that would be a parker?

1 Q. Exactly.

2 A. It's just a citation.

3 Q. Okay. And that's part of the training  
4 that you would have received --

5 A. Right.

6 Q. -- prior to -- well, I guess, in the  
7 process of becoming a Cincinnati Police Office?

8 A. Right.

9 Q. Now, tell me a little bit about what  
10 that consisted of.

11 A. A parking violation?

12 Q. Correct.

13 A. Parked in any violation of a posted  
14 sign; parked with expired tags, parked with no  
15 license plates, parked too far from a curb. I mean,  
16 it's a ton of things you can be cited for on parking  
17 violations.

18 Q. Okay, and that's something that you  
19 would look for while you're on patrol in the Bond  
20 Hill area?

21 A. Correct.

22 Q. Okay. Now, have you received any -- or  
23 covered that type of issue in any of your  
24 post-training or seminars or whatever you may have  
25 taken with the Cincinnati Police Department?

1 A. I don't understand that question.

2 Q. The annual training that you told me  
3 that you receive from the Cincinnati Police  
4 Department.

5 A. Do we have training as far as writing  
6 parkers?

7 Q. Right.

8 A. No.

9 Q. Okay. So you wouldn't have had any --  
10 Since you've been a police officer, you would not have  
11 had any additional training as it relates to writing  
12 parkers. I'll use your words?

13 A. No.

14 Q. Okay, officer, now, you mentioned --  
15 and I'll just go right into that -- that on the day  
16 with the incident involving Mr. Moore, you were doing  
17 a detail assignment?

18 A. Correct.

19 Q. What exactly is a detail assignment?

20 A. It's a, it's off-duty work that you do  
21 for any establishment that requires a police officer  
22 presence.

23 Q. Okay. Is it by contract between the  
24 establishment and yourself?

25 A. Correct.

1 Q. A written contract?

2 A. Yes.

3 Q. So the establishment would come and  
4 just ask Officer McNeil if he would like to do  
5 off-duty work at the establishment?

6 A. They wouldn't ask me; I'll sign up for  
7 it and it's -- you're picked, you're hand-picked by  
8 the person in charge of the detail.

9 Q. Okay. You would sign up for it  
10 through --

11 A. Through a district.

12 Q. Through the district.

13 A. Through the district.

14 Q. Just to make sure that I have this  
15 because I'm just not familiar with how that actually  
16 works, there would be a list posted in the district  
17 --

18 A. Right.

19 Q. -- correct, and on that list there may  
20 be a number of different establishments who are in  
21 need of off-duty police officers?

22 A. Right.

23 Q. You just sign your name by the  
24 establishment and the time that you would be  
25 available?

1           A.    Correct.

2           Q.    Okay. And who makes the determination  
3 of yes, you can do that off-duty detail or no, we're  
4 giving it to officer X?

5           A.    Detail Coordination.

6           Q.    Okay. Is that a unit?

7           A.    Yes.

8           Q.    Okay. Who is eligible to do details  
9 which -- Is there -- specific police officers that are  
10 eligible for off-duty assignments or detail work?

11          A.    Any sworn police officer that's on  
12 duty or needs -- has police powers.

13          Q.    Okay. So no special requirements, no  
14 certain number of training hours, or nothing to that  
15 effect, as long as you're a sworn police officer?

16          A.    Well, you have to be off probation. I  
17 think it's one year.

18          Q.    Okay. And do you -- have you ever  
19 worked as a detail coordinator?

20          A.    No.

21          Q.    Do you know what method the detail  
22 coordinators use to approve or disapprove officers  
23 for specific detail assignments?

24          A.    I have no idea.

25          Q.    Have you ever signed up for a detail

1 that you didn't receive?

2 A. Yes.

3 Q. Do you know what the reason for you  
4 not receiving that would have been?

5 A. It may be because she gave me x-amount  
6 of details in another area or the person may have more  
7 seniority.

8 Q. Okay. So it could just be a number of  
9 different reasons as to why?

10 A. Right, right.

11 Q. Okay. I'm following you.

12 What about the establishment, do they  
13 ever require -- they have specific requirements for  
14 the officers that, that they would like to do the  
15 detail assignments there?

16 A. Sometimes. At this particular  
17 establishment, they may be parking in a fire lane; you  
18 have to move cars out of the fire lane, up against the  
19 curb of the store; may be some aggressive panhandling  
20 or just disorderly juveniles running around in the  
21 store or whatever may be going on to request a police  
22 presence.

23 Q. Okay, but what I'm asking is do they  
24 have any specific requirements for the individual  
25 officer, like oh, we want a veteran officer or we

1 want a officer who's on a bike or --

2 A. Not to my knowledge.

3 Q. Okay, but now, I believe what you were  
4 just stating to me is some -- you were just giving me  
5 reasons why an establishment may want an off-duty  
6 officer --

7 A. Right.

8 Q. -- is that -- Okay, okay; I'm just  
9 wanting to make sure I understand what you're saying.

10 Now, doing detail work, is that  
11 strictly voluntary?

12 A. Yes.

13 Q. And is there a explanation sheet or  
14 some kind of manual or something that you follow to  
15 do detail work?

16 A. No.

17 Q. So it's just assumed once you're off  
18 probation, you want to sign to do detail, it's  
19 assumed that you would know exactly what to do once  
20 you do that detail assignment; is that correct?

21 A. Pretty much, yes. I mean, it's basic  
22 police work, just patrolling and, and observing of  
23 what's goin' on.

24 Q. Okay. Now, when you were doing detail  
25 work for the Kroger store, what were your duties

1 there, just the basic police patrol work?

2 A. Yes.

3 Q. And prior to the incident where you  
4 were involved with Mr. Moore, had you done previous  
5 details at Kroger's locations?

6 A. Yes.

7 Q. Had you done previous details at that  
8 specific Kroger location?

9 A. Yes.

10 Q. What other locations had you been at,  
11 if you remember?

12 A. Far as Krogers?

13 Q. Yes.

14 A. That was the only one.

15 Q. And prior to the incident involving  
16 Mr. Moore, how many details would you say, roughly,  
17 that you had done at that Kroger's location?

18 A. I can't remember.

19 Q. More than five?

20 A. Yes.

21 Q. More than 10?

22 A. Yes.

23 Q. More than 15?

24 A. Probably.

25 Q. So what about 20, more than 20?

1 A. Between five and 10, maybe.

2 Q. Okay, okay. Now, would that -- What  
3 period of time would that have been prior to the  
4 incident with Mr. Moore, like, within that -- If this  
5 happened in June, this incident occurred in June,  
6 would that have been within that year? Had it been,  
7 like, two years?

8 A. Within that year.

9 Q. Okay. At various different times or  
10 are your detail assignments always at the same time  
11 for the Kroger store?

12 A. At that time, I think I was doin' the  
13 4:00 to 8:00 shift.

14 Q. Okay. And what about the other  
15 details, the 15 or 10, 15 that you've had previously?

16 A. It was always 4:00 to 8:00.

17 Q. Okay, always 4:00 to 8:00, 4:00 p.m. to  
18 8:00 p.m.?

19 A. Yes.

20 Q. Now, while you were doing details at  
21 that Kroger store, had you ever received any  
22 customer's complaint about you or your conduct?

23 A. No.

24 Q. What about any complaints from  
25 employees of Kroger's about or your conduct?

1 work hours, while they're working. Would something  
2 like that apply to you, as well?

3 A. No.

4 Q. Okay. Were you told anything about  
5 rules and regulations or anything like that that you  
6 needed to follow while you were doing detail work for  
7 the Kroger Company?

8 A. No, just, just have a presence while  
9 you're there, basically.

10 Q. Okay. Now, while you're doing detail  
11 work -- I know you said you would be paid by the  
12 establishment -- do they cover any other benefits for  
13 you at that time?

14 A. No.

15 Q. Okay. So if you were to get injured  
16 while doing detail work and were eligible to receive  
17 Workmen's Compensation, that would come through the  
18 Department or the establishment?

19 A. I have no idea.

20 Q. Okay. Because you've never been  
21 injured --

22 A. Correct.

23 Q. -- while you're working? All right.  
24 So, then, is the -- as far as benefits that you  
25 receive while you're doing detail work, is your

1 manual?

2 A. Right.

3 Q. A manual in Krogers that's written out  
4 by the Cincinnati Police Officers, who are doing  
5 detail work there?

6 A. Right.

7 Q. But what about a specific Kroger  
8 employee manual? Have you ever received anything  
9 like that?

10 A. No.

11 Q. Were you ever instructed -- Well, what  
12 about any, any literature regarding rules and  
13 regulations from Krogers? Have you ever received  
14 anything like that from any Kroger representative?

15 A. No.

16 Q. Have you ever received any manuals or  
17 literature from the Cincinnati Police Department  
18 regarding Kroger details?

19 A. No. We have just detail, detail  
20 regulations overall for whatever detail you're doing.

21 Q. Okay, and that is issued by the  
22 Cincinnati Police Department?

23 A. Right.

24 Q. So you've received a copy of that?

25 A. Right.

1 uniform?

2 A. Yes.

3 Q. And if you can just explain, briefly  
4 -- It was a full uniform?

5 A. Yes.

6 Q. What, exactly, just briefly, is a full  
7 Cincinnati Police Uniform?

8 A. Consisting of what I'm wearing today,  
9 the issue duty weapon, night stick, a radio.

10 Q. Okay. And so you were dressed in that  
11 at the time. Now, when you came to that store that  
12 day, you had been relieving someone, I believe you  
13 stated earlier?

14 A. Right.

15 Q. Do you remember what the store was  
16 like that day? Was it a crowded day, a light day,  
17 very many people when you, initially, arrived?

18 A. That store is normally busy all the  
19 time.

20 Q. Okay. And how long after you had  
21 arrived at work, do you recall first seeing Mr.  
22 Moore?

23 A. I can't remember.

24 Q. What were you doing when you first saw  
25 Mr. Moore.

1           A.     Yes.

2           Q.     And there is a bank located inside of  
3 this Krogers?

4           A.     Correct.

5           Q.     I believe it's a Fifth-Third Bank; is  
6 that correct?

7           A.     Yes, it is.

8           Q.     Okay. And does he try to continue to  
9 walk as you're talking to him about moving the  
10 vehicle?

11          A.     No. He's standing there, engaged in  
12 conversation with me.

13          Q.     And what were you saying in response  
14 to Mr. Moore or were you just standing there?

15          A.     I responded to him, just telling him  
16 he needed to honor the sign and not park there and  
17 that there is -- if he wanted to park, there's -- I  
18 believe he was in this spot, here (pointing on  
19 exhibit), and there's a spot directly behind him that  
20 was -- it was a open space. All he had to do was  
21 just back up in it. He had the same parking spot,  
22 maybe, five yards away from where he was at.

23          Q.     Okay. And once Mr. Moore indicated to  
24 you that he wasn't to go to move, did you contact the  
25 Kroger manager?

1 A. No, I didn't.

2 Q. Okay. Was there a manager or someone  
3 from the administration from Kroger out there at that  
4 time?

5 A. I can't recall.

6 Q. Okay. How many times did you ask Mr.  
7 Moore to move his vehicle?

8 A. Several.

9 Q. Just repeatedly, move your vehicle,  
10 move your vehicle?

11 A. Um, yes.

12 Q. Okay. How long did this conversation  
13 between you and Mr. Moore last?

14 A. It may have lasted, maybe, all of four  
15 or five minutes before I called for backup.

16 Q. Do you remember if it was still  
17 daylight out?

18 A. Yes.

19 Q. Now, you said some people had began --  
20 "patrons," I believe is your word and employees --

21 A. Some, some customers and some  
22 employees.

23 Q. Okay. And they started to gather.  
24 Were they in the parking lot around you and Mr.  
25 Moore?

1                   A. Not in the parking lot. They were  
2 more on the apron of the walkway, near the pop  
3 machines.

4                   Q. Okay. A large crowd, like, more than  
5 10 people?

6                   A. More than 10 people; yes.

7                   Q. And they were just standing, observing  
8 you and Mr. Moore?

9                   A. Some of 'em started to, to get  
10 involved, shouting things. I can't -- The exacts  
11 words was -- some things were screw that, but in a, in  
12 a profane, profane way. "You ain't got to do what he  
13 sayin'," just, just normal young teenage activity when  
14 somethin's goin' on with the police.

15                  Q. Okay. Now, were you facing the crowd?

16                  A. No. My back was to the crowd.

17                  Q. Okay. So Krogers would have been, the  
18 establish --

19                  A. Behind us --

20                  Q. -- would have been behind you?

21                  A. Right.

22                  Q. Now, where you and Mr. Moore were  
23 standing in the parking lot, were you blocking  
24 traffic from coming through?

25                  A. No.

1           Q. Now, Mr. Moore is stopped and he's  
2 just talkin' to you; you're trying to ask him to move  
3 his vehicle and you said that he started talkin'  
4 about a number of different things: the Justice  
5 System, the police and so forth?

6           A. Um-hum.

7           Q. Did he ever make any other attempts or  
8 efforts to go inside of the Kroger Store?

9           A. Not that I recall.

10          Q. Okay. Did you tell him he could not  
11 go inside of the Kroger Store?

12          A. No, I did not.

13          Q. Did you, in any way, stop him from  
14 going inside the Kroger Store, and when I say, "in  
15 any way," I mean by any kind of manual gesture or  
16 anything to that effect?

17          A. No, I did not.

18          Q. Okay. Did Mr. Moore indicate to you  
19 that -- No. Strike that.

20           Do you know if the bank was even open  
21 at this time, the Fifth-Third Bank, inside the  
22 Krogers?

23          A. I believe the blank -- the bank closes  
24 at 8:00, so I get off at 8:00 which, if they're  
25 closed, I'm gone, I would say they were open.

1 Q. So the crowd was about 40 feet away?  
2 A. Maybe -- Yes, roughly, from a parking  
3 spaced.

4 Q. Okay.

5 A. They were probably another 12-to-15  
6 feet away from my back.

7 Q. Now, you showed Mr. Moore the, the  
8 parking sign. Did you point that out to Mr. Moore?

9 A. Yes.

10 Q. The reserved only --

11 A. On, on several diffrent occasions.

12 Q. And what did Mr. Moore respond? How  
13 did he respond in reference to the parking sign, if  
14 you recall?

15 A. Normally, his response is, "Do what  
16 you got to do," and he goes in the bank. He goes --  
17 He just on about his business and that's that. This  
18 particular day, he chose to stay out in the parking  
19 lot and have a confrontation with me.

20 Q. Okay. Let me go back a minute. You  
21 said, "normally." So he's been at that parking space  
22 before? You've observed him --

23 A. Right.

24 Q. -- parking in that space before?

25 A. You asked me earlier have I ever had

1 contact with him and I told you just on this, this  
2 situation --

3 Q. Okay.

4 A. -- with the parking space.

5 Q. On the other days, though --

6 A. Correct.

7 Q. -- prior to June 21st?

8 A. Correct.

9 Q. And you've told him on other occasions  
10 not to park in this reserved, only, parking space?

11 A. I've asked.

12 Q. Or you've asked him, move your  
13 vehicle?

14 A. Correct.

15 Q. Which he has never done; is that your  
16 testimony?

17 A. Correct.

18 Q. And in response to that, have you had  
19 occasion to do anything on prior occasions?

20 A. No.

21 Q. Have you ever went and got a store  
22 manager on prior occasions about Mr. Moore's vehicle  
23 being in the reserved only, "Reserved for Police  
24 Vehicles Only," space?

25 A. No.

1           Q.    So, normally, he would just continue  
2 on, go to the bank, get back in the vehicle and drive  
3 off?

4           A.    Right.

5           Q.    On previous, previous occasions?

6           A.    Correct.

7           Q.    But you say on this particular time,  
8 he remained outside and engaged in a conversation  
9 with you?

10          A.    Engaged in a confrontation with me;  
11 yes.

12          Q.    Okay. Now, confrontation, why was it  
13 confrontational? Why was he confrontational?

14          A.    Because he was argumentative over the  
15 parking spot and what was goin' on with the current  
16 news with the Police Department and his, his actions  
17 became to a point where it involved -- it started to  
18 get everybody else involved in it.

19          Q.    Okay. His actions or his -- When you  
20 say his, "actions," body language or verbal language?

21          A.    Body actions, some verbal, some hand  
22 gestures, movement, just actions period.

23          Q.    Okay. Now, he's argumentative; your  
24 conversation was totally about the parking space; is  
25 that correct?

1 A. Initially, yes.

2 Q. Okay. Initially, then what did it  
3 change to?

4 A. His behavior.

5 Q. Did you engage in any type of  
6 conversation with him in reference to his other  
7 comments about the Police Department, the Justice  
8 Department, what's goin' on here in the city?

9 A. No.

10 Q. At what point did your conversation  
11 turn to Mr. Moore's behavior?

12 A. I guess the -- What started to make me  
13 become more aware of the situation is when the first  
14 outburst came from behind me. The other people  
15 started to get involved.

16 Q. Okay. So once other people started to  
17 get involved, you then --

18 A. Called for backup.

19 Q. Called for backup. And are you saying  
20 that other people were becoming involved because of  
21 Mr. Moore's actions?

22 A. Just -- I guess I would say just  
23 because of there was some activity goin' on between  
24 the police and another person, period.

25 Q. That would cause the crowd to get

1 involved?

2 A. Right.

3 Q. So it wasn't Mr. Moore's, it wasn't  
4 Mr. Moore's actions, specifically, that was causing  
5 the crowd to get involved? It could have been the  
6 fact that you and Mr. Moore, a Police Officer and  
7 another individual --

8 A. His, his actions caused 'em to get  
9 involved.

10 Q. Hold on one second. Let me finish the  
11 question. Because you and Mr. Moore, you as a police  
12 officer, him as another person were engaged in, in a  
13 conversation.

14 MR. HARRIS: Objection, asked and  
15 answered, but you can answer if you know.

16 A. His actions caused people to get  
17 involved. Why they choose to get involved is my  
18 reason of saying that just because the police is out  
19 having whatever dealings with a citizen.

20 Q. Okay, okay, I understand what you're  
21 saying.

22 So you then, I believe, said you  
23 decided to call for backup; correct?

24 A. That's correct.

25 Q. And what, exactly, did you state to

1 the dispatcher?

2 A. I can't remember. I think the car,  
3 the detail number is 5976, "Can you start me another  
4 car towards Krogers?"

5 Q. No other details as to --

6 A. She'll say, "What do you have there,"  
7 disorderly subject.

8 Q. Okay. And that's what you stated?

9 A. Correct.

10 Q. Now, another police officer eventually  
11 arrived; correct?

12 A. Correct.

13 Q. And would that have been Police  
14 Officer Schulte?

15 A. Yes, he was one of 'em.

16 Q. And who were the other ones, if any?

17 A. His partner was Officer JoeHonny Reese  
18 and Lt. Bley also arrived.

19 Q. Now, Officer Schulte and Officer Reese  
20 were in one vehicle?

21 A. Yes.

22 Q. And Lt. Bley was in a separate  
23 vehicle?

24 A. Correct.

25 Q. So they pulled up to the parking lot.

1           A. I can't recall the exact words about  
2 it.

3           Q. At any time, did you tell him that he  
4 couldn't enter inside of the Kroger Store?

5           A. No, I did not.

6           Q. At any time, after you dispatched, did  
7 you try to prevent him, manually, with your hands or  
8 verbally, from going inside of the Kroger Store?

9           A. At that time, he was gonna be under  
10 arrest for disorderly conduct, so he couldn't go into  
11 the store after I called for backup.

12          Q. Did you communicate that to him?

13          A. Yes.

14          Q. I'm sorry?

15          A. To him?

16          Q. Yes.

17          A. Yes.

18          Q. So you communicated that he would be  
19 under arrest for disorderly conduct prior to the  
20 dispatch or immediately after the dispatch?

21          A. Immediately after.

22          Q. Okay. And did you then tell him  
23 remain here or give him any other commands at that  
24 point?

25          A. I can't remember the exact command or

1 Q. Yes, I'm sorry.

2 A. Both of 'em.

3 Q. And what are you telling them at this  
4 point --

5 A. That I --

6 Q. -- briefing them on the situation?

7 A. Right, exactly.

8 Q. I'm sorry. Did you alert them about  
9 the situation with the parking lot, Mr. Moore  
10 refusing or was your conversation strictly about --

11 A. It was strictly about the behavior and  
12 why he was --

13 Q. His conduct?

14 A. Right.

15 Q. I'm sorry. I wasn't finished with my  
16 question. So your answer is?

17 A. That I told Schulte that he would be  
18 arrested for disorderly conduct; yes.

19 Q. And at that point, what happened next,  
20 after you gave the information to Officer Schulte?

21 A. He was placed in custody and put  
22 inside -- the back of the police car.

23 Q. So you didn't read him any rights?

24 A. At that time, I didn't; no.

25 Q. Did Officer Schulte, to your

1 Q. Did you tell Mr. Moore that he was in  
2 violation of the law for parking his vehicle in this  
3 space?

4 A. No. Are you talking about for his  
5 arrest?

6 Q. No, I'm sorry; with respect to the  
7 parking, with him parking his vehicle in the  
8 reserved-for-police-vehicles-only space?

9 A. No, I didn't tell him he was in  
10 violation of the law.

11 Q. Okay.

12 A. It was a violation of Kroger law, not  
13 police law.

14 Q. And I'm not sure if I asked this  
15 already, but did you ask anyone from Krogers if they  
16 wanted to sign a complaint against Mr. Moore for  
17 parking in this space?

18 A. No.

19 Q. And did you ask Mr. Moore -- I'm  
20 sorry. Did you ask anyone from Krogers if they  
21 wanted to have Mr. Moore's vehicle towed from this  
22 space?

23 A. No, I didn't.

24 Q. Okay. Now, was there a manager  
25 outside, from Krogers, during this incident with Mr.

1       Moore?

2           A.    I can't recall.

3           Q.    Do you recall speaking to a manager  
4   while you were outside?

5           A.    While we were outside?

6           Q.    Um-hum.

7           A.    No.

8           Q.    Now, at any point during this incident  
9   with Mr. Moore, did you become upset?

10          A.    No.

11          Q.    Did you ever become agitated in  
12  dealing with Mr. Moore?

13          A.    No.

14          Q.    So the fact that Mr. Moore did not  
15  want to move his vehicle, that didn't bother you in  
16  any way?

17          A.    No, it didn't. In fact, if he'd just  
18  kept walking to the store, this probably would have  
19  been the same as any other occasion; that would have  
20  been that, but this day, he chose to stand outside and  
21  have a confrontation with me.

22          Q.    Okay. How many times, roughly, would  
23  you say that you've asked Mr. Moore to move his  
24  vehicle?

25          A.    Two, three, tops.

1 A. No.

2 Q. And were there customers and patrons  
3 still coming in and out of Krogers during this time?

4 A. Yes.

5 Q. How long, if you recall was Police  
6 Officer Schulte at the scene, say from the time he  
7 arrived to the time he transported Mr. Moore to the  
8 Justice Center?

9 A. I can remember how long.

10 Q. More than 15 minutes?

11 A. It's possible. I can't remember.

12 Q. And what about once Mr. Moore is  
13 handcuffed, is he still making the same statements as  
14 he was making previously?

15 A. Well, once he's handcuffed, he's inside  
16 the car, so at that time, the situation that I was  
17 trying to de-escalate, it was over. So whatever he  
18 had to say inside the car, I didn't pay it no mind.

19 Q. Now, just to make sure I have this  
20 clear, Mr. Moore was arrested for disorderly conduct?

21 A. Correct.

22 Q. And is it your testimony, officer,  
23 that his behavior and -- Well, I'm sorry; you said,  
24 "his actions," you said he had a raised voice; is  
25 that correct?

1 officer.

2 Q. You arrested the Plaintiff in your  
3 capacity as a Cincinnati Police Officer?

4 A. That is correct.

5 Q. You didn't arrest him as an employee  
6 or security guard for Kroger?

7 A. That's correct.

8 Q. And no Kroger personnel or employee  
9 suggested or told you or asked you to arrest the  
10 Plaintiff on that day?

11 A. No, they didn't.

12 Q. You made an independent judgment to  
13 arrest Mr. Moore based upon the situation in your  
14 training and experience as a Cincinnati Police  
15 Officer.

16 A. That's correct.

17 Q. Do you know whether you could have  
18 cited Mr. Moore for trespassing since he parked in a  
19 reserved spot on this private lot?

20 A. Cite him for trespassing?

21 Q. Yes.

22 A. No. That's up to the store to bar him  
23 from the store and at that point, he can be  
24 trespassing.

25 MR. HILLER: I don't have any other